

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH M. GALLO,

Plaintiff,

v.

INTER-CON SECURITY,

Defendant.

20-CV-4879 (KPF)

MEMO ENDORSED

DEFENDANT'S NOTICE OF MOTION TO DISMISS THE COMPLAINT

PLEASE TAKE NOTICE THAT, upon its Memorandum of Law in Support of Its Motion to Dismiss the Complaint, the Affirmation of Evan B. Citron and accompanying exhibits, and all of the papers and proceedings herein, Defendant Inter-Con Security Systems, Inc. (incorrectly named herein as "Inter-Con Security"), will move this Court, before the Honorable Katherine Polk Failla, at the United States District Court for the Southern District of New York, Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007, on a date and time to be determined by the Court, for an order pursuant to Rule 12(b)(5) of the Federal Rules of Civil Procedure dismissing the Complaint in its entirety.

Dated: New York, New York
July 2, 2020

Respectfully submitted,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

By: /s/ Evan B. Citron

Evan B. Citron

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New York, NY 10022
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*Attorneys for Defendant
Inter-Con Security Systems, Inc.*

CERTIFICATE OF SERVICE

I, Evan B. Citron, hereby certify that on July 2, 2020, I caused the within Notice of Motion to Dismiss the Complaint, Affirmation of Evan B. Citron, Esq, together with exhibits thereto, and Defendant's Memorandum of Law in Support of Its Motion to Dismiss the Complaint, to be electronically submitted to the Clerk of the Court for the U.S. District Court for the Southern District of New York, and a copy of the within pleading to be served via overnight delivery, postage prepaid upon:

Joseph M. Gallo
8 Windward Lane
Commack, New York 11725
646.761.5706

Pro Se Plaintiff

/s/ Evan B. Citron
Evan B. Citron

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The Court is in receipt of a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(5), filed by Defendant. (Dkt. #5). That motion is DENIED without prejudice as to renewal for two reasons. *First*, in accordance with Rule 4(A) of the Court's Individual Rules of Practice, parties are required to file a letter seeking a pre-motion conference before filing any motions to dismiss. Defendant has not complied with this rule. *Second*, Plaintiff has yet to appear in this removed case, and therefore is currently unable to respond to any motion practice. The Court will not accept any motion to dismiss while Plaintiff has not yet appeared. However, once Plaintiff does appear in this action, Defendant is welcome to renew its motion in compliance with this Court's Rule 4(A).

Dated: July 6, 2020
New York, New York

SO ORDERED.

